

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Craig Anderson	Team: Squad #10	CCRB Case #: 201703278	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input checked="" type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Saturday, 04/22/2017 9:03 PM	Location of Incident: [REDACTED]	Precinct: 77	18 Mo. SOL 10/22/2018	EO SOL 10/22/2018	
Date/Time CV Reported Sun, 04/23/2017 12:29 AM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Thu, 04/27/2017 11:02 AM		

Complainant/Victim	Type	Home Address
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]

Witness(es)	Home Address
[REDACTED]	[REDACTED]

Subject Officer(s)	Shield	TaxID	Command
1. POM Craig Mcgrath	26900	955165	077 PCT
2. An officer			077 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. SGT Avinash Patel	05322	940551	077 PCT
2. POM Umar Khatab	20552	952929	077 PCT
3. POM Matthew Rosiello	20090	951180	077 PCT
4. POM Steven Rupnick	27055	955426	077 PCT
5. POM Allen Haynes	10102	956729	077 PCT
6. POM Patrick Craig	26996	945623	077 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Craig Mcgrath	Discourtesy: Police Officer Craig McGrath spoke discourteously to § 87(2)(b)	[REDACTED]
B.POM Craig Mcgrath	Off. Language: Police Officer Craig McGrath made remarks to § 87(2)(b) based upon the gender of § 87(2)(b)	[REDACTED]
C.POM Craig Mcgrath	Force: Police Officer Craig McGrath struck § 87(2)(b) with a radio.	[REDACTED]
D.POM Craig Mcgrath	Abuse: Police Officer Craig McGrath threatened § 87(2)(b) with the use of force.	[REDACTED]
E. An officer	Force: An officer used physical force against § 87(2)(b)	[REDACTED]

Case Summary

Sgt. Avinash Patel of the 77th Precinct reported this incident to IAB on April 23, 2017 (BR 01). The CCRB received this case on April 27, 2017. The investigation exceeded the 90-day benchmark due to difficulties in obtaining statements from the victims, § 87(2)(b) and § 87(2)(b).

On April 22, 2017, at approximately 9:03 p.m., PO Craig McGrath and PO Umar Khitab of the 77th Precinct approached § 87(2)(b) on a sidewalk across from § 87(2)(b) in Brooklyn. PO McGrath reportedly saw § 87(2)(b) exchange drugs with another individual, § 87(2)(b) though § 87(2)(b) denied that this occurred. PO McGrath found three bags of heroin on or near § 87(2)(b) denied that they were his. PO McGrath allegedly called § 87(2)(b) a “future Pookie” and said that his girlfriend, § 87(2)(b) was a “THOT” (Allegations A and B).

PO McGrath took § 87(2)(b) to the ground and allegedly hit him in the face with a radio three to four times while telling him to “shut the fuck up” (Allegations C and A, cont.). PO McGrath and PO Khitab handcuffed § 87(2)(b) and put him in the back of a police vehicle. § 87(2)(b) who was in the area, then allegedly opened the door and § 87(2)(b) fled down the street. He made it to the intersection of Lincoln Place and Schenectady Avenue before Sgt. Patel stopped him. (In his interview, § 87(2)(b) denied that this occurred.) PO McGrath put § 87(2)(b) back in a different police vehicle, allegedly saying, “Sit the fuck back before I punch you in the face” as he did so (Allegations A, cont. and D). An unidentified officer allegedly slammed § 87(2)(b) to the ground (Allegation E).

§ 87(2)(b) and § 87(2)(b) were all taken to the 77th Precinct stationhouse. § 87(2)(b) was charged with § 87(2)(b). § 87(2)(b) was charged with § 87(2)(b). § 87(2)(b) was released with a summons for an open container because officers did not find any narcotics on him. § 87(2)(b) was bleeding from the mouth and nose and claimed that he lost several teeth. An FDNY ambulance responded and cleaned his injuries. § 87(2)(b) initially refused hospitalization, but went to § 87(2)(b) the next morning and received pain medication. § 87(2)(b) was also hospitalized, though the reasons for this are uncertain: her arraignment information said she was “dope sick,” (BR 15), while several of the interviewed officers said she claimed to be pregnant.

§ 87(2)(b)'s criminal case is ongoing. § 87(2)(b) was given an Adjournment in Contemplation of Dismissal.

There is no known video footage of this incident.

Mediation, Civil and Criminal Histories

- The arrests of § 87(2)(b) and § 87(2)(b) rendered this case unsuitable for mediation.
- As of August 21, 2017, no Notice of Claim has been filed in relation to this incident (BR 14).
- § 87(2)(b)

§ 87(2)(b)

- Office of Court Administration records showed no criminal convictions for § 87(2)(b) (BR 04).

Civilian and Officer CCRB Histories

- This is the first CCRB complaint in which § 87(2)(b) or § 87(2)(b) are named as victims (BR 05).
- PO McGrath has been a member of the NYPD for four years. There are three prior complaints against him containing five allegations, none of which were substantiated. Two of his prior complaints, cases 201602705 and 201605291, include force allegations.

Potential Issues

- § 87(2)(b) was interviewed via video teleconference on June 26, 2017, while § 87(2)(b). A verification form and HIPAA forms were mailed to him and were not returned. § 87(2)(b) was released from jail on July 9, 2017. A second set of forms was mailed to his home address on July 12, 2017, and have not been returned. The phone number § 87(2)(b) provided was called on August 9, 2017, and was not in service. Because § 87(2)(b) failed to complete and return the verification and HIPAA forms, his statement is unverified and his medical records are unavailable to the investigation.
- After numerous unsuccessful contact attempts, § 87(2)(b) was first reached by phone on June 8, 2017, and scheduled an interview for the next day. She failed to appear for the interview and did not cancel in advance. Repeated attempts to contact § 87(2)(b) by phone and mail to reschedule the interview were unsuccessful. Therefore, § 87(2)(b)'s testimony was unavailable.
- The only identified civilian witness to the incident is § 87(2)(b) the alleged buyer in the drug transaction that § 87(2)(b) was arrested for. Letters were sent to § 87(2)(b) at four addresses obtained from his summons and searches of Lexis Nexis, CLEAR, and the Department of Motor Vehicles. Letters sent to two of the addresses were returned as undeliverable. Two letters sent to each of the other two addresses have not been returned. None of the searches yielded phone numbers for § 87(2)(b). To date, he has not contacted the CCRB and his testimony was therefore unavailable.
- Video footage was obtained from a TARU camera and from a public school near the incident location, but the footage did not capture the incident. A subpoena was sent to the owner of 1257 Lincoln Place, a nearby apartment building, but a staff member from the property management company contacted the investigator and said no footage was available.

Findings and Recommendations

Explanation of Subject Officer Identification

- § 87(2)(b) described the subject of all the allegations pertaining to him as a white male who was 5'9" or 5'10" tall, had a "chubby" build, was 35 to 40 years old, and wore glasses. PO McGrath is § 87(2)(b)

- § 87(2)(b) He also acknowledged in his interview that he was the first officer to approach § 87(2)(b). Therefore, **Allegations A, B, C, and D** are pleaded against PO McGrath.
- § 87(2)(b) said that the second officer who approached him – described as an Indian male in his mid-30s – slammed § 87(2)(b) to the ground. PO Khitab was the second officer to approach § 87(2)(b) and matches that description, but, in his interview, he denied having any interaction with § 87(2)(b) at the scene of arrest. § 87(2)(b)'s testimony that PO Khitab was the officer who used force against § 87(2)(b) may not be entirely reliable, given that he was reportedly fleeing the officers at that time. As noted above, § 87(2)(b) failed to appear for a scheduled interview and did not respond to subsequent contact attempts. Because § 87(2)(b)'s failure to provide a statement prevented the investigation from determining what officer, if any, used force against her, **Allegation E** is pleaded against “an officer.”

Allegations not pleaded

- **Stop and Search:** The stop and search of § 87(2)(b) were incident to his arrest and are not pleaded.
- **Force:** Sgt. Patel said that after § 87(2)(b) escaped from the vehicle, he chased him down the street and forcibly took him to the ground. § 87(2)(b) however, denied fleeing from the vehicle and made no allegations of force against Sgt. Patel. Therefore, no force allegation is pleaded against him.

Allegation A – Discourtesy: Police Officer Craig McGrath spoke discourteously to § 87(2)(b)

Allegation B – Offensive Language: Police Officer Craig McGrath made remarks to § 87(2)(b) based upon the gender of § 87(2)(b)

Allegation C – Force: Police Officer Craig McGrath struck § 87(2)(b) with a radio.

Allegation D – Abuse of Authority: Police Officer Craig McGrath threatened § 87(2)(b) with the use of force.

§ 87(2)(b) said that, at the time of the incident, he was sitting by himself on a stoop across from § 87(2)(b) watching a group of police officers talk to another group of people across the street (BR 06). One officer, identified as PO McGrath for reasons described above, looked at § 87(2)(b) and said he was coming to talk to him. PO McGrath approached § 87(2)(b) asked if he had anything on him, and searched his pockets. PO McGrath then found three bags of heroin on the ground and said they were § 87(2)(b)'s, which § 87(2)(b) denied. PO McGrath called § 87(2)(b) a “future Pookie” and told him that his girlfriend was a “THOT,” a slang term that stands for “That Hoe Over There.”

PO McGrath told § 87(2)(b) to put his hands behind his back. § 87(2)(b) verbally disputed his arrest, but complied and did not physically resist at any time. PO McGrath then “slammed” § 87(2)(b) to the ground, where he landed face-down, by tripping him. PO McGrath hit him in the nose and mouth with a radio three to four times while telling him to “shut the fuck up.” Another officer, identified by the investigation as PO Umar Khitab, approached and put his knee on § 87(2)(b)'s back, after which PO McGrath put him in handcuffs. The officers initially put him in an unmarked car, but then moved him to a marked car. As PO McGrath put him in the marked car, he said, “Sit the fuck back before I punch you in the face.”

§ 87(2)(b) said he suffered bleeding from the mouth and nose, lost several teeth, and felt back pain due to the force used against him. An ambulance came to the stationhouse and the EMTs cleaned the blood off his face. § 87(2)(b) declined to go to the hospital at that time because he wanted to go home, but asked to go to the hospital the next morning and was taken to Interfaith Hospital, where he was given pain medicine. As noted previously, § 87(2)(b) failed to return signed HIPAA release forms to the CCRB, so his medical records were unavailable. A request for any Medical Treatment of Prisoner Form prepared for § 87(2)(b) yielded negative results (BR 07).

PO McGrath said his Anti-Crime team was inspecting § 87(2)(b) an abandoned house, when he saw § 87(2)(b) exchange heroin for cash with § 87(2)(b) across the street (BR 08). PO McGrath approached § 87(2)(b) with one other officer. (In his interview, PO McGrath said the other officer was PO Patrick Craig, but the investigation determined that it was PO Khitab.) PO McGrath told § 87(2)(b) to stop, but § 87(2)(b) started to walk away and moved his left arm as if to throw the heroin in his hand. PO McGrath grabbed § 87(2)(b)'s left arm, after which § 87(2)(b) “cocked back” his right arm as if he planned to throw a punch. PO McGrath and PO Khitab then took § 87(2)(b) to the ground and handcuffed him. PO McGrath denied striking § 87(2)(b) with a radio or striking him in any way. He denied telling § 87(2)(b) that his girlfriend was a “THOT” or telling him to “shut the fuck up.” He denied calling § 87(2)(b) a “future Pookie” and said he was unfamiliar with that term.

As the officers walked § 87(2)(b) to an unmarked vehicle, § 87(2)(b) approached and tried to pull him away. They put him in the back of the unmarked vehicle. As PO McGrath walked around the vehicle to get in the other side, § 87(2)(b) opened the door and § 87(2)(b) ran down the street. PO McGrath chased him and tackled him and then put him in a marked vehicle that had responded to a call for additional units. § 87(2)(b) was bleeding from the mouth and spat blood in the face of another officer, PO Allen Haynes. PO McGrath did not say, “Sit the fuck back before I punch you in the face” when he put § 87(2)(b) in the marked police vehicle. He denied using any obscenities or threats of force toward § 87(2)(b). At the stationhouse, PO McGrath took photos of § 87(2)(b)'s injuries. He provided copies of these photos during his CCRB interview (BR 09).

PO Khitab said he did not see the drug transaction, but approached § 87(2)(b) because he saw PO McGrath doing so (BR 10). He denied hearing PO McGrath make any of the statements noted above. He saw § 87(2)(b) drop three decks of heroin from his hand. § 87(2)(b) held onto a fence to avoid being handcuffed. PO Khitab pulled on his hand to try to remove it from the fence, but § 87(2)(b) let go of the fence at the same time, causing himself, PO Khitab, and PO McGrath to fall to the ground, landing face-down. Neither PO McGrath nor PO Khitab struck § 87(2)(b) with a radio or otherwise struck him. When § 87(2)(b) escaped from the car, PO Khitab joined the foot pursuit. When he got to the end of the block, he saw § 87(2)(b) on the ground, on top of Sgt. Patel. § 87(2)(b) was bleeding from the mouth, but was not missing teeth.

Sgt. Patel said that PO McGrath and another officer had already handcuffed § 87(2)(b) by the time he approached them (BR 11). He denied seeing them strike § 87(2)(b) with a radio. When § 87(2)(b) fled from the police vehicle, Sgt. Patel ran after him and stopped him by grabbing him around the torso, causing § 87(2)(b) to fall and land on top of Sgt. Patel.

PO Craig said that he apprehended § 87(2)(b) who walked to the end of the block (BR 12). § 87(2)(b) was handcuffed in the middle of the block, and PO Craig was too far away to see or hear what happened with § 87(2)(b)

§ 87(2)(g)

[REDACTED]

Allegation E – Abuse of Authority: An officer used physical force against § 87(2)(b)

As noted above, § 87(2)(b) failed to appear for a scheduled interview and did not respond to subsequent contact attempts. Her testimony was therefore unavailable.

§ 87(2)(b)'s attorney § 87(2)(b), said in a phone call on May 2, 2017, that he heard § 87(2)(b) was punched in the face. § 87(2)(b) said in his interview that an officer matching PO Khitab's description "slammed" § 87(2)(b) to the ground and handcuffed her, but he did not see anything that happened after that because he was being arrested himself.

All of the officers who were interviewed – PO Khitab, PO McGrath, Sgt. Patel, and PO Patrick Craig – denied using any force against § 87(2)(b) or seeing another officer do so. They all said they did not know what officer handcuffed her.

§ 87(2)(g)

[REDACTED]

Squad: 10

Investigator: _____

Signature	Print	Date
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Squad Leader: _____

Title/Signature	Print	Date
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Reviewer: _____

Title/Signature

Print

Date